

**STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC  
SAFETY**

**DCR DOCKET NO. EH06WG-64885**

**Netesha Peterson,**  
**Complainant,**  
**v.**  
**Rowan University,**  
**Respondent.**

**Administrative Action  
FINDING OF PROBABLE CAUSE**

On September 30, 2014, Netesha Peterson (Complainant) filed a verified complaint with the New Jersey Division on Civil Rights (DCR), alleging that Rowan University (Respondent), discriminated against her based on race and sex, in violation of the New Jersey Law Against Discrimination (LAD), N.J.S.A. 10:5-1 to -49. Respondent denied the allegations of discrimination in their entirety. DCR's investigation found as follows.

**SUMMARY OF INVESTIGATION**

Respondent is an institution of higher learning located in Glassboro, New Jersey. On October 15, 2012, Complainant was hired as a part-time, temporary career counselor. In this role, Complainant was responsible for assisting students and alumni in their career development by providing individual counseling, conducting group activities related to career exploration and other job search skills, conducting workshops and presentations, and researching majors and careers. In July 2013, Complainant began serving in the role of assistant director of employer relations, on a temporary basis. She served in this role until June 30, 2014.

In the verified complaint, Complainant alleged that she applied for the permanent position of assistant director of employee relations on a number of occasions, with the most recent being May 14, 2014. Complainant alleged that she was qualified for the role because she had been serving in an acting capacity, but despite her qualifications, Respondent refused to promote her, and instead offered the position to [REDACTED], a less-qualified, non-Black male.

In its answer to the complaint, Respondent stated that the assistant director position was initially posted internally, and Complainant was the only applicant. Respondent stated that because the applicant pool was not sufficiently broad, the position was posted externally and Complainant reapplied. Respondent stated that although Complainant was a strong candidate, [REDACTED] was selected for the role because he had extensive experience at another institution of higher education, had demonstrated knowledge and experience with learning assessment and student outcomes, and

possessed broad experience in the co-op model<sup>1</sup>. Respondent stated that Complainant had no external experience in higher education, and lacked experience with and understanding of learning assessments and outcomes.

Documents produced by Respondent confirmed that Complainant was contracted to serve in the full-time, temporary assistant director position from July 15, 2013 through December 31, 2013, and was re-contracted for the term January 1, 2014 through June 30, 2014. On June 9, 2014, [REDACTED], wrote a letter of evaluation for Complainant in which she stated that Complainant was “instrumental in planning and implementing” a number of career events, and that she executed “her professional responsibilities with enthusiasm and professionalism.”

Respondent’s documents demonstrated that the assistant director position was posted externally on January 8, 2014. The essential duties and responsibilities included assisting students and alumni with career exploration, making presentations and conducting workshops, developing an integrated marketing plan to increase student and employer participation, and developing new services and programs.

Respondent produced a list that indicated 245 candidates applied for the position, and three candidates were selected for interviews. A search committee interviewed Complainant, [REDACTED], and another candidate on May 14, 2014. Respondent produced materials from the interviews that listed each candidate’s strengths and weaknesses, and indicated that Complainant and [REDACTED] were moved to the “recommended” list, while the third candidate was not.

The search committee stated that Complainant’s strengths included that she was currently working in the position, successfully demonstrated program growth, provided new programming ideas, was engaging and understood student needs, generated leads and opportunities, and served and addressed diverse populations. It was also noted that she had generated financial support for the career management center. Complainant’s opportunities for growth included that she misunderstood student learning outcomes, had less experience in higher education than the other two candidates, and one of the members felt that she needed “polish.” Respondent produced seven interview forms for Complainant that demonstrated six committee members rated her as “Highly Qualified,” and one gave her the lower rating of “Qualified.”

The search committee stated that [REDACTED] strengths included his experience, polish, communication skills, extensive experience with the cooperative education model, advocacy for students starting their job search early, and marketing skills. [REDACTED] weaknesses were listed as little institutional knowledge, wordiness, and limited experience with diverse populations. Respondent produced nine interview forms for [REDACTED] that demonstrated four members rated him as “Highly Qualified,” while five members gave him the lower rating of “Qualified.”

On July 31, 2014, Vice President and Dean of Student Affairs Richard Jones wrote an email endorsing [REDACTED] for the assistant director position. Jones stated that the career management center needed “seasoned professionals whom have the ability to put employers in front of students

---

<sup>1</sup> A cooperative education or “co-op” model is one in which students combine classroom-based education with practical work experience.

through various venues particular (sic) one-on-one campus interviews.” Jones further stated, “I believe [REDACTED] meets that criteria.”

Respondent stated that [REDACTED] was offered the position but ultimately did not accept the role after negotiations broke down over health benefits. In a supplemental statement submitted during the course of DCR’s investigation, Respondent stated that after [REDACTED] declined the position, “rather than simply hire another candidate into an Assistant Director role, [Respondent] elected to evaluate the entire structure of the Career Management Office.” Respondent created the role of associate director for employer relations that was a “more senior level role” than the assistant director position. [REDACTED] applied for this higher-level position and was later hired. In its supplemental statement, Respondent explained that after [REDACTED] rejected the assistant director position, the role remained vacant and [REDACTED] was hired April 15, 2015 to perform the duties on a temporary basis.

During an interview with DCR, Jones stated that he recommended [REDACTED] over Complainant because he believed [REDACTED] experience would translate to students receiving increased employment opportunities after graduation. Jones also stated that [REDACTED] presentation and style during the interview was “polished” and the university needed an experienced professional to represent its interests. Jones stated that he emphasized co-op experience, and if Complainant had this, he would have hired her. Jones stated that after [REDACTED] was not hired into the assistant director position, the role remained open and was temporarily filled by [REDACTED], a Black female.

DCR interviewed [REDACTED], who retired in 2014. [REDACTED] stated that the assistant director position was first posted internally and she interviewed Complainant twice for the role. [REDACTED] stated that she sent an email to Jones endorsing Complainant for the position, but Jones went against her recommendation. [REDACTED] stated that during a meeting with Jones, he stated that he believed Complainant was qualified but wanted to “see what is out there.” [REDACTED] stated that Jones also wanted to develop co-op programs to create relationships between businesses in order to increase employment opportunity for graduates. [REDACTED] stated that Jones’ relationships with white male and female employees was different than his relationship with Black female employees, and Jones had a previous complaint filed against him by a Black female in his department.

DCR conducted an interview with [REDACTED]. [REDACTED] chaired the search committee for the assistant director of employer relations position. [REDACTED] stated that when the department had a vacancy, it would first be posted internally, and positions were typically only posted externally if no one was qualified or no one applied. [REDACTED] stated that [REDACTED] informed him that she had recommended Complainant for the position, but Jones refused to consider her. [REDACTED] stated that he was upset when [REDACTED] did not accept the position and Complainant was not hired for it, because Complainant was the next qualified candidate and was performing the duties of the position. [REDACTED] stated that he was not sure whether Jones’ decision was motivated by Complainant’s race or sex, but he noted that many of the employees with complaints about Jones were Black women.

In an interview with DCR, [REDACTED] stated that she was on the search committee for the assistant director position. [REDACTED] stated that she believed Complainant was

qualified for the position and she did not understand why Complainant was not offered the position after [REDACTED] did not accept it.

Information obtained during the investigation was shared with Complainant, and prior to the conclusion of the investigation and she was given an opportunity to submit additional information.

## ANALYSIS

At the conclusion of an investigation, the DCR Director is required to determine whether “probable cause exists to credit the allegations of the verified complaint.” N.J.A.C. 13:4-10.2(a). “Probable cause” for purposes of this analysis means a “reasonable ground of suspicion supported by facts and circumstances strong enough in themselves to warrant a cautious person in the belief that the [LAD] has been violated.” N.J.A.C. 13:4-10.2(b). If DCR determines that probable cause exists, then the complaint will proceed to a hearing on the merits. N.J.A.C. 13:4-11.1(b). However, if DCR finds there is no probable cause, then that determination is deemed to be a final agency order subject to review by the Appellate Division of the Superior Court of New Jersey. N.J.A.C. 13:4-10.2(e); R. 2:2-3(a)(2).

A finding of probable cause is not an adjudication on the merits. Instead, it is merely an initial “culling-out process” in which the Director makes a threshold determination of “whether the matter should be brought to a halt or proceed to the next step on the road to an adjudication on the merits.” *Frank v. Ivy Club*, 228 N.J. Super. 40, 56 (App. Div. 1988), rev’d on other grounds, 120 N.J. 73 (1990), cert. den., 498 U.S. 1073. Thus, the “quantum of evidence required to establish probable cause is less than that required by a complainant in order to prevail on the merits.” *Ibid*.

The LAD makes it unlawful to fire, refuse to hire, or otherwise discriminate in the “terms, conditions or privileges of employment” based on race or sex. N.J.S.A. 10:5-12(a).

Here, the investigation found sufficient evidence to support a reasonable suspicion that Respondent discriminated against Complainant based on race and/or sex. Based on the evidence presented, Complainant had successfully been performing the role of assistant director, and six of the seven committee members who interviewed her rated her as “Highly Qualified.” Comparatively, [REDACTED] was rated as “Highly Qualified” by only four of the nine committee members who interviewed him. Both candidates were moved to the “recommended” list. Respondent stated that [REDACTED] was selected over Complainant based on his “polish” and experience, especially with respect to co-op programs. However, even after [REDACTED] declined the assistant director position, Complainant was still not offered role despite a positive evaluation from the department director and high ratings from the search committee. [REDACTED] all expressed to DCR that they felt Complainant was qualified for the role and did not understand why it was not offered to her. Additionally, [REDACTED] stated that Jones’ relationships with white male and female employees was different than his relationship with Black female employees, and Jones had a previous complaint filed against him by a Black female in his department. [REDACTED] stated that he was not sure whether Jones’ decision not to offer the position to Complainant after [REDACTED] declined it was motivated by Complainant’s race or sex, but he noted that many of the employees with complaints about Jones were Black women.

At this threshold stage in the process, there is sufficient basis to warrant “proceed[ing] to the next step on the road to an adjudication on the merits.” Frank, supra, 228 N.J. Super. at 56. Therefore, the Director finds probable cause to support Complainant’s allegations of race and sex discrimination.



Rachel Wainer Apter, Director  
NJ Division on Civil Rights

Date: December 30, 2019